

ENTERED

August 15, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALEX ADAMS, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. 2:23-CV-00076
§
UNITED STATES POSTAL SERVICE, *et* §
al., §
§
Defendants. §

ORDER ADOPTING MEMORANDA AND RECOMMENDATIONS

Pending before the Court are two motions, each accompanied by a memorandum and recommendation to deny issued by United States Magistrate Judge Mitchel Neurock: (1) Plaintiff's Motion to Reinstate Motion for Injunction (D.E. 75, 77) and (2) Plaintiff's Motion for a[n] Injunction (D.E. 80, 81). Plaintiff filed objections to each memorandum and recommendation (D.E. 79, 82). This Court entered final judgment dismissing this action on July 19, 2023. D.E. 64. Plaintiff filed a notice of appeal and the Fifth Circuit dismissed the appeal on October 2, 2023. D.E. 67, 74. Plaintiff's present motions were not filed until May 10, 2024 and June 3, 2024, respectively.

As the Magistrate Judge observed, any relief from the judgment is limited to that available under Federal Rule of Civil Procedure 60(b). However, most of Plaintiff's objections are focused on excuses or defenses related to the timeliness of his prosecution of the case while it was pending. Plaintiff provides no information to explain why these

issues were not presented to the Court prior to judgment or in a motion for new trial under Rule 59. Neither does he state with specificity any error in the Magistrate Judge's analysis as is required. Fed. R. Civ. P. 72(b)(2). Mere disagreement or rehashing of old arguments is not sufficient. *Malacara v. Garber*, 353 F.3d 393, 405 (5th Cir. 2003); *Edmond v. Collins*, 8 F.3d 290, 293 n.7 (5th Cir. 1993).

Plaintiff provides no record references for his procedural assertions and it is not this Court's duty to pick through the record to find and construct something that might match his vague arguments. *Malacara; Hernandez v. Yellow Transp., Inc.*, 670 F.3d 644, 651 (5th Cir. 2012). His assertion that he has paid the filing fee for this case is contrary to the docket, which does not reflect any receipt for payment. And he has supplied no evidence of such payment.

Plaintiff's objection that he is actually innocent of the crime for which he was convicted has no relevance to his civil rights claim against the United States Postal Service, the TDCJ law library, or the warden in this case. Rather, any remedy is available only through habeas corpus procedure. Likewise, as the Magistrate Judge noted, this Court does not have jurisdiction to provide Plaintiff with any remedy against the Fifth Circuit's dismissal of his appeal.

The Court **OVERRULES** all of Plaintiff's objections.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memoranda and Recommendations, as well as Plaintiff's objections, and all other relevant documents in the record, and having made a de novo

disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, both of Plaintiff's motions (D.E. 75, 80) are **DENIED**.

ORDERED on August 15, 2024.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE